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Security Council

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Security Council Committee established pursuant to resolution 1540 (2004)

Note verbale dated 19 April 2006 from the Permanent Mission of Chile to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of Chile to the United Nations presents its compliments to the Security Council Committee established pursuant to resolution 1540 (2004), and has the honour to submit the attached report (see annex), which complements and expands on the Government of Chile's declaration with respect to paragraph 4 of resolution 1540 (2004), which the Republic of Chile also complied with in October of 2004 and in declarations throughout the course of 2005.

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Annex to the note verbale dated 19 April 2006 from the Permanent Mission of Chile to the United Nations addressed to the Committee

[Original: Spanish]

Background information on the implementation by Chile of resolution 1540

(Where pertinent, the item number on the matrix for Security Council resolution 1540 (2004) is indicated in parentheses.)

1. National laws or legislative provisions referring to the prohibition to non-State actors to acquire, possess, develop, transport, transfer or use chemical weapons and their means of delivery:

1.1 Conventions, agreements and declarations:

Chile signed the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction on 14 January 1993 and ratified it on 12 July 1996.

The Convention was promulgated as a law of the Republic by DS 1,764 of 2 December 1996 and published in the *Diario Oficial* on 11 March 1997.

For the purpose of implementing the Convention, the General Directorate of National Mobilization (DGMN) was designated, by DS 364 of 13 March 1997, as the National Authority (OP 1, No. 5 on the matrix).

The National Authority is required to submit annual reports to the Technical Secretariat of the Organization for the Prohibition of Chemical Weapons (OPCW) on activities that are regulated by the Convention. In its initial declaration, submitted to the Technical Secretariat of OPCW in 1997, Chile stated that it did not possess chemical weapons (OP 1, No. 1 on the matrix).

1.2 On national legislation

Act 17,798, on Control of Arms, Explosives and Similar Elements, establishes legal measures for dealing with conventional weapons and also provides, in Article 2 (e), for control of "elements that have physiological effects".

In addition, article 3 prohibits the possession of devices manufactured on the basis of asphyxiating, paralysing or poisonous gases. It also prohibits the possession of so-called special weapons or weapons of mass destruction, such as chemical, biological, toxinic and nuclear weapons (OP 2 and OP 3 (a) and (b), chemical, biological and nuclear weapons, Nos. 1-14 on the matrix).

An amendment to Act 17,798 has been introduced with the aim of including detailed provisions on the control and prohibition of the chemical weapons and chemical substances mentioned in Lists 1, 2 and 3 of the Convention on Chemical Weapons, establishing controls on those substances as well as on the industrial facilities that produce them. The new text has been completed and is currently being considered for approval by DGMN and the Ministry of National Defence (MDN).

2. On border controls

Pursuant to decision No. 1,110 of 12 April 2000 and decision No. 02000 of 30 June 2000, the National Customs Service is now involved in controlling the substances listed in the Chemical Weapons Convention, which lists a number of dual-purpose chemical substances, considering the potential risk of their becoming part of the chain of precursors for the manufacture of chemical weapons. This measure makes it possible to monitor transfers, as well as the individuals or entities that request them; accordingly, the authorization of the General Directorate of National Mobilization, in its capacity as National Authority for the Chemical Weapons Convention, is required in order for any of these substances to enter or leave the national territory.

3. On penalties for infringement of the legislation

For the Chilean State, the Convention is a law of the Republic, inasmuch as it has been signed, ratified and promulgated in the *Diario Oficial*. Consequently, any individual or entity that infringes article 1 of the Convention, on General Obligations, paragraph 1 of which reads as follows:

> "Each State Party to this Convention undertakes never under any circumstances:
>
> (a) To develop, produce, otherwise acquire, stockpile or retain chemical weapons, or transfer, directly or indirectly, chemical weapons to anyone;
>
> (b) To use chemical weapons;
>
> (c) To assist, encourage or induce, in any way, anyone to engage in any activity prohibited to a State Party under this Convention",

Anyone who engages in such activities is liable to criminal penalties ranging from medium-term rigorous imprisonment in the medium degree to long-term rigorous imprisonment in the minimum degree (541 days to 6 years). There are no administrative penalties.

Articles 13 and 14 of Act 17,798, on Arms Control, deal with criminal aspects of the possession or ownership of arms in general. Accordingly, the amendment to this law specifically refers to the aspects covered by the Chemical Weapons Convention and will include in the supplementary regulations the penalties to be applied.

4. In line with the above background information, attached herewith are the amended tables for the matrix, which include the information this National Authority considers pertinent within its sphere of competence.

OP 3 (a) and (b) — Account for/Secure/Physically protect BW including Related Materials

State: Chile

Date of report: 27 October 2004 and 13 May 2005 (Add.1)

Are any of the following measures, procedures or legislation in place to account for, secure or otherwise protect BW and Related Materials? Can violators be penalized?		*National legal framework*		*Enforcement: civil/criminal penalties, and others*		*Remarks*
		YES	*If YES, indicate source document*	*YES*	*If YES, indicate source document*	
1	**Measures to account for production**					Chile has stated that it does not possess biological weapons
2	Measures to account for use					
3	Measures to account for storage					
4	Measures to account for transport					
5	Other measures for accounting					
6	Measures to secure production					
7	Measures to secure use					
8	Measures to secure storage					
9	Measures to secure transport					
10	Other measures for securing					
11	Regulations for physical protection of facilities/ materials/transports					
12	Licensing/registration of facilities/persons handling biological materials					
13	Reliability check of personnel					
14	Measures to account for/secure/ physically protect means of delivery					

Are any of the following measures, procedures or legislation in place to account for, secure or otherwise protect BW and Related Materials? Can violators be penalized?		*National legal framework*		*Enforcement: civil/criminal penalties, and others*		*Remarks*
		YES	*If YES, indicate source document*	*YES*	*If YES, indicate source document*	
15	Regulations for genetic engineering work					
16	Other legislation/regulations related to safety and security of biological materials					
17	Other					

OP 3 (a) and (b) — Account for/Secure/Physically protect CW including Related Materials

State: Chile

Date of report: 27 October 2004 and 13 May 2005 (Add.1)

Are any of the following measures, procedures or legislation in place to account for, secure or otherwise protect CW and Related Materials? Can violators be penalized?		*National legal framework*		*Enforcement: civil/criminal penalties, and others*		*Remarks*
		YES	*If YES, indicate source document*	*YES*	*If YES, indicate source document*	
1	Measures to account for production					Chile has stated that it does not possess chemical weapons
2	Measures to account for use					
3	Measures to account for storage					
4	Measures to account for transport					
5	Other measures for accounting					
6	Measures to secure production					
7	Measures to secure use					
8	Measures to secure storage					
9	Measures to secure transport					
10	Other measures for securing					
11	Regulations for physical protection of facilities/ materials/transports					
12	Licensing/registration of facilities/persons handling biological materials					
13	Reliability check of personnel					
14	Measures to account for/secure/ physically protect means of delivery					

Are any of the following measures, procedures or legislation in place to account for, secure or otherwise protect CW and Related Materials? Can violators be penalized?		*National legal framework*		*Enforcement: civil/criminal penalties, and others*		
		YES	*If YES, indicate source document*	*YES*	*If YES, indicate source document*	*Remarks*
15	Regulations for genetic engineering work					
16	Other legislation/regulations related to safety and security of biological materials					
17	Other					

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* **OP 2 — Biological Weapons (BW)**

State: Chile

Date of report: 27 October 2004 and 13 May 2005 (Add.1)

Does national legislation exist which prohibits persons or entities to engage in one of the following activities? Can violators be penalized?		*National legal framework*		*Enforcement: civil/criminal penalties and others*		
		YES	*If YES, indicate source document of national implementation law*	*YES*	*If YES, indicate source document*	*Remarks*
1	Manufacture/produce	X	Art. 3, Act 17,798			
2	Acquire	X	Art. 3, Act 17,798			
3	Possess	X	Art. 3, Act 17,798			
4	Stockpile/store	X	Art. 3, Act 17,798			
5	Develop	X	Art. 3, Act 17,798			
6	Transport	X	Art. 3, Act 17,798			
7	Transfer	X	Art. 3, Act 17,798			
8	Use	X	Art. 3, Act 17,798			
9	Participate as an accomplice in a.m. activities	X	Art. 3, Act 17,798			
10	Assist in a.m. activities	X	Art. 3, Act 17,798			
11	Finance a.m. activities	X	Art. 3, Act 17,798			
12	A.m. activities related to means of delivery	X	Art. 3, Act 17,798			
13	Involvement of non-State actors in a.m. activities	X	Art. 3, Act 17,798			Title III, Act 17,798
14	Other	X				

OP 2 — Chemical Weapons (CW)

State: Chile

Date of report: 27 October 2004 and 13 May 2005 (Add.1)

Does national legislation exist which prohibits persons or entities to engage in one of the following activities? Can violators be penalized?		*National legal framework*		*Enforcement: civil/criminal penalties and others*		
		YES	*If YES, indicate source document of national implementation law*	*YES*	*If YES, indicate source document*	*Remarks*
1	Manufacture/produce	X	Art. 3, Act 17,798			
2	Acquire	X	Art. 3, Law 17,798			
3	Possess	X	Art. 3, Law 17,798			
4	Stockpile/store	X	Art. 3, Law 17,798			
5	Develop	X	Art. 3, Law 17,798			
6	Transport	X	Art. 3, Law 17,798			
7	Transfer	X	Art. 3, Law 17,798			
8	Use	X	Art. 3, Law 17,798			
9	Participate as an accomplice in a.m. activities	X	Art. 3, Law 17,798			
10	Assist in a.m. activities	X	Art. 3, Law 17,798			
11	Finance a.m. activities	X	Art. 3, Law 17,798			
12	A.m. activities related to means of delivery	X	Art. 3, Law 17,798			
13	Involvement of non-State actors in a.m. activities	X	Art. 3, Law 17,798			Title III, Act 17,798
14	Other	X	The amendment to Act 17,798 (in process) includes all the elements needed to comply with CWC			

OP 2 — Nuclear Weapons (NW)

State: Chile

Date of report: 27 October 2004 and 13 May 2005 (Add.1)

Does national legislation exist which prohibits persons or entities to engage in one of the following activities? Can violators be penalized?		*National legal framework*		*Enforcement: civil/criminal penalties and others*		*Remarks*
		YES	*If YES, indicate source document of national implementation law*	*YES*	*If YES, indicate source document*	
1	Manufacture/produce	No				
2	Acquire	No				
3	Possess	No				
4	Stockpile/store	No				
5	Develop	No				
6	Transport	No				
7	Transfer	No				
8	Use	No				
9	Participate as an accomplice in a.m. activities	No				
10	Assist in a.m. activities	No				
11	Finance a.m. activities	No				
12	A.m. activities related to means of delivery	No				
13	Involvement of non-State actors in a.m. activities	No				
14	Other	?	Interministerial Working Group (Ministry for Foreign Affairs, of the Interior, Defence, Justice, Health, etc.) in charge of studying and recommending concrete measures, such as export controls and palliative and penal measures	?	Interministerial Working Group (Ministry for Foreign Affairs, of the Interior, Defence, Justice, Health, etc.) in charge of studying and recommending concrete measures, such as export controls and palliative and penal measures	

OP 3 (a) and (b) — Account for/Secure/Physically protect NW including Related Materials

State: Chile

Date of report: 27 October 2004 and 13 May 2005 (Add.1)

	Are any of the following measures, procedures or legislation in place to account for, secure or otherwise protect NW and Related Materials? Can violators be penalized?	*National legal framework*		*Enforcement, civil/criminal penalties and others*		*Remarks*
		YES	*If YES, indicate source document*	*YES*	*If YES, indicate source document*	
1	Measures to account for production	Yes	INFCIRC/476	No		Related materials
2	Measures to account for use	Yes	INFCIRC/476	No		Related materials
3	Measures to account for storage	Yes	INFCIRC/476	No		Related materials
4	Measures to account for transport	Yes	Transport Regulations	No		Related materials
5	Other measures for accounting			No		Related materials
6	Measures to secure production	Yes	Nuclear Security Act	Yes	Nuclear Security Act	Related materials
7	Measures to secure use	Yes	Nuclear Security Act	Yes	Nuclear Security Act	Related materials
8	Measures to secure storage	Yes	Nuclear Security Act	Yes	Nuclear Security Act	Related materials
9	Measures to secure transport	Yes	Nuclear Security Act	Yes	Nuclear Security Act	Related materials
10	Other measures for securing	Yes	Nuclear Security Act	Yes	Nuclear Security Act	Related materials
11	Regulations for physical protection of facilities/ materials/transports	Yes	Nuclear Security Act	Yes	Nuclear Security Act	Related materials
12	Licensing of nuclear installations/entities/use of materials	Yes	Nuclear Security Act	Yes	Nuclear Security Act	Related materials
13	Reliability check of personnel	No				
14	Measures to account for/secure/ physically protect means of delivery	No				
15	National regulatory authority	Yes	Nuclear Security Act			Related materials

Are any of the following measures, procedures or legislation in place to account for, secure or otherwise protect NW and Related Materials? Can violators be penalized?		*National legal framework*		*Enforcement, civil/criminal penalties and others*		*Remarks*
		YES	*If YES, indicate source document*	*YES*	*If YES, indicate source document*	
16	IAEA Safeguards Agreements	Yes	Additional Protocol entered into force in November 2003			Related materials
17	IAEA Code of Conduct on Safety and Security of Radioactive Sources	Yes	Expressed support to the Director General of IAEA			
18	IAEA Database on Illicit Trafficking of Nuclear Materials and other Radioactive Sources	Yes	Contributes to the IAEA programme database on illicit traffic			
19	Other agreements related to IAEA	Yes				
20	Additional national legislation/ regulations related to nuclear materials including CPPNM	Yes	Nuclear Security Convention Physical Protection Convention			
21	Other	?	Interministerial Working Group (Ministry for Foreign Affairs, of the Interior, Defence, Justice, Health, etc.) in charge of studying and recommending concrete measures, such as export controls and palliative and penal measures		Interministerial Working Group (Ministry for Foreign Affairs, of the Interior, Defence, Justice, Health, etc.) in charge of studying and recommending concrete measures, such as export controls and palliative and penal measures	

OP 3 (c) and (d) and related matters from OP 6 and OP 10 — Controls of NW including Related Materials

State: Chile

Date of report: 27 October 2004 and 13 May 2005 (Add.1)

Which of the following legislation, procedures, measures, agencies exist to control border crossings, export/import and other transfers of NW and Related Materials? Can violators be penalized?		*National legal framework*		*Enforcement: civil/criminal penalties, and measures of implementation, etc.*		*Remarks*
		YES	*If YES, indicate source document*	*YES*	*If YES, indicate source document*	
1	Border control					
2	Technical support of border control measures					
3	Control of brokering, trading in, negotiating, otherwise assisting in sale of goods and technology					
4	Enforcement agencies/authorities					
5	Export control legislation in place					
6	Licensing provisions					
7	Individual licensing					
8	General licensing					
9	Exceptions from licensing					
10	Licensing of deemed export/visa					
11	National licensing authority					
12	Inter-agency review for licences					
13	Control lists					
14	Updating of lists					
15	Inclusion of technologies					
16	Inclusion of means of delivery					
17	End-user controls					
18	Catch all clause					

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Which of the following legislation, procedures, measures, agencies exist to control border crossings, export/import and other transfers of NW and Related Materials? Can violators be penalized?		*National legal framework*		*Enforcement, civil/criminal penalties, and measures of implementation, etc.*		*Remarks*
		YES	*If YES, indicate source document*	*YES*	*If YES, indicate source document*	
19	Intangible transfers					
20	Transit control					
21	Trans-shipment control					
22	Re-export control					
23	Control of providing funds					
24	Control of providing transport services					
25	Control of importation					
26	Extraterritorial applicability					
27	Other	?	Interministerial Working Group (Ministry for Foreign Affairs, of the Interior, Defence, Justice, Health, etc.) in charge of studying and recommending concrete measures, such as export controls and palliative and penal measures	?	Interministerial Working Group (Ministry for Foreign Affairs, of the Interior, Defence, Justice, Health, etc.) in charge of studying and recommending concrete measures, such as export controls and palliative and penal measures	

Subparagraphs (c) and (d) are not clear; most of the points are not relevant to the question.